IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 23520 of 1995

Between:

1 Boyina Kameswara Rao, S/o. Late Veerayya, Hindu
Cultivation, Kotabommali Village,
Kotabommali Mandal, Srikakulam District.
2 Boyina Sudharsan Rao, S/o. Late Veerayya, Hindu
Cultivation, Kotabommali Village,
Kotabommali Mandal, Srikakulam District.
3 Boyina Dharma Rao, S/o. Late Veerayya, Hindu
Cultivation, Kotabommali Village,
Kotabommali Mandal, Srikakulam District.
4 Boyina Ramaiah, S/o. Late Veerayya, Hindu
Cultivation, Kotabommali Village,
Kotabommali Mandal, Srikakulam District.

..... PETITIONERS

AND

1 The District Collector,
Srikakulam, Srikakulam District.

2 Special Deputy Collector/Land Acquisition Officer,
Vamsadhara Project, Tekkali,
Srikakulam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more particularly one in the nature of a Writ of Mandamus, directing the respondents to immediately refer under Section 18 and 19 of the Land Acquisition Act to a competent Court i.e., the Court of the Subordinate Judge, Sompeta, relating to the award covered by the notice dated 26-10-1995

issued by the 2nd respondent relating to the award for acquiring the land of the petitioners covered by Survey No.31/1-B of an extent of 0.41 hectares, of Kotabommali village in Kotabommali mandal of Srikakulm District and furnish a copy of the award also to the Petitioners declaring : that the non-making of any reference as contemplated under Sections 18 and 19 of the land Acquisition Act, in spite of the application dated 2-11-1985 made by the petitioners to the 2nd respondent within time as contemplated under section 18(1) of the Act about their non-acceptance of the award, requesting the authorities to make a reference to the Court is highly arbitrary, improper, contrary to law and opposed to the principles of natural justice and to direct the respondents to see and pursue that such reference is numbered and entertained by the Court by complying with all the necessary formalities without any delay.

Counsel for the Petitioners: MR.D.RAMALINGA SWAMY

Counsel for the Respondents.: GP FOR LAND ACQUISITION

The Court made the following :

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 23520 of 1995

ORDER

This Writ Petition is filed by the petitioners seeking a direction in the nature of writ of mandamus to direct the respondents to refer the award under section 18 and 19 of the Land Acquisition Act to a competent Court i.e., the Court of the Subordinate Judge, Sompeta, and to declare the action of the respondents in not making any reference as contemplated under Sections 18 and 19 of the land Acquisition Act, in spite of the application dated 2-11-1985 made by the petitioners, as highly arbitrary, improper, contrary to law; and to direct the respondents to see and pursue that such reference is numbered and entertained by the Court by complying with all the necessary formalities without any delay.

The grievance of the petitioners is that the compensation awarded by the Land Acquisition Officer to the petitioners for acquiring their lands of an extent of 0.41 hectares situated in Survey No.31/1-B of Kotabommali village in Kotabommali

mandal of Srikakulm District, for the purpose of Vamsadhara Project, is very low and that in spite of their requests, the respondents did not make reference of the award to the Court under the mandatory provisions of section 18 of the Land Acquisition Act, so as to enable them to get the necessary reliefs in a Court of law. Hence, the present writ petition.

Heard the learned Counsel.

The learned Counsel for the petitioners reiterated the contentions raised in the affidavit filed in support of the writ petition and contended that the action of the respondents in not referring the award to the Court of law is arbitrary and contrary to law.

The learned Counsel for the respondents contended that a reference has been made under Section 18 and 19 of the Land Acquisition Act through the Principal Subordinate Judge, Sompeta under Rc.No.166/95A, dated 25.11.1995 and they are pending before the Subordinate Judge's Court and it is open for the writ petitioners to approach the Civil Court and agitate their rights, if they so desire.

In view of the submission made by the learned Counsel for the respondents, I am of the view that the relief sought for in this writ petition, does not survive for adjudication and it has become infructuous.

Accordingly, the Writ petition is dismissed as infructuous. No costs.

Justice T. Meenakumari

Dated: 17th March, 2005

Nn.

Copy to:

1. The District Collector,
   Srikakulam, Srikakulam District.

2. The Special Deputy Collector/Land Acquisition Officer,
   Vamsadhara Project, Tekkali,
   Srikakulam District.

3. Two C.Cs to the Government Pleader for Land Acquisition, High Court Buildings, High Courts of A.P., Hyderabad (O.U.T.)

4. Two C.D. copies.